

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-40266 CBS

AMERICAN MANUFACTURERS MUTUAL  
INSURANCE COMPANY,

Plaintiff

v.

TOWN OF NORTH BROOKFIELD,

Defendant

AFFIDAVIT OF DONALD GILLETTE IN SUPPORT OF  
DEFENDANT'S REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANT'S LOCAL  
RULE 56.1 STATEMENT OF MATERIAL FACTS NOT IN DISPUTE AND  
STATEMENT OF ADDITIONAL FACTS IN OPPOSITION TO DEFENDANT'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Donald J. Gillette, on oath, depose and state the following:

1. I am the co-chair of the North Brookfield School Building Committee and have served in this capacity since its inception in 2000.
2. In connection with the North Brookfield Junior/Senior High School construction project (“Project”), I attended a May 21, 2003 meeting with representatives of the Town, E.J. Sciaba Contracting Co., Inc. (“Sciaba”), American Manufacturers Mutual Insurance Company (“AMMIC”) and project architect, Dore & Whittier.
3. At the meeting, the Town was never requested to notify AMMIC prior to making payments to Sciaba on the Project.

4. At the meeting, no one from the Town represented that payments would be withheld from Sciaba until Sciaba submitted a revised Project schedule.
5. At no time during the meeting did AMMIC's representatives request the Town to withhold payments from Sciaba or make payments to AMMIC, as performance bond surety, on Sciaba's behalf.
6. At no time during the meeting did AMMIC's representatives ever express any concern that the Town should not make payments to Sciaba for work performed on the Project.
7. At the meeting, Sciaba's representatives stated that a new project manager, Matt Daly, had been assigned to the Project on a full-time basis.
8. At the meeting, the Town was assured by Sciaba's representatives that Sciaba could complete the Project and was informed by AMMIC's representatives that AMMIC did not foresee Sciaba's default on the Project as a possibility.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 2nd DAY  
OF FEBRUARY, 2006.

/s/ Donald J. Gillette  
Donald J. Gillette

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